

REMARKS/ARGUMENTS

The Examiner is requiring restriction to one of the following groups:

Group I: Claims 1-7 (in part), 9-12 (in part) and 14-20 (in part), drawn to compounds where D together with R⁶ to R⁹ = benzoxazine;

Group II: Claims 1-7 (in part), 8, 9-12 (in part), 13 and 14-20 (in part), drawn to compounds where D together with R⁶ to R⁹ = quinoline;

Group III: Claims 1-7 (in part), 9-12 (in part) and 14-20 (in part), drawn to compounds where D together with R⁶ to R⁹ = indole;

Group IV: Claims 1-6 (in part), 9-11 (in part) and 14-20 (in part), drawn to compounds where D together with R⁶ to R⁹ = other heterocyclic ring; and

Group V: Claims 1-5 (in part), 9-10 (in part) and 14-20 (in part), drawn to D together with R⁶ to R⁹ = non-heterocyclic ring.

Applicants provisionally elect Group II, Claims 1-7 (in part), 8, 9-12 (in part), 13 and 14-20 (in part), drawn to compounds where D together with R⁶ to R⁹ = quinoline, with traverse on the grounds that no adequate reasons and/or examples have been provided to support a conclusion of patentable distinctiveness between the identified groups. Also, it has not been shown that a burden exists in searching the claims of the five groups.

Moreover, the MPEP at § 803 states as follows:

“If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on its merits, even though it includes claims to distinct or independent inventions.”

Applicants respectfully submit that a search of all of the claims would not impose a serious burden on the Office.


Finally, Applicants respectfully submit that, should the claims of Group II be found allowable, the Office should expand its search to the claims of Groups I and III to V.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement. Withdrawal of the Restriction Requirement is respectfully requested.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice of such action is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon


James H. Knebel
Registration No. 22,630

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413-2220
(OSMMN 06/04)

Paul J. Killos
Registration No. 58,014